UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,538	10/20/2000	John O. Moody	FS-00504	3407

30743 7590 02/21/2007

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON, VA 20190

EXAMINER	
NGUYEN, NAM V	
ART UNIT	PAPER NUMBER
2612	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/692,538	MOODY ET AL.	
	Examiner	Art Unit	
	Nam V. Nguyen	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-5* is/are rejected.

7)☒ Claim(s) *6-14* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is in response to applicant's response to an Amendment which is filed December 6, 2006.

An amendment to the claims 1-3, 5-6 and 15 has been entered and made of record.

Claims 2 and 15 are cancelled.

Claims 1 and 3-14 are pending.

Response to Arguments

Applicant's amendments and arguments to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C § 103 as discussed below. Applicant's amendment and argument with respect to the pending claims 1-5, filed December 6, 2006, have been fully considered but they are not persuasive for at least the following reasons.

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found

to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "Apparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original). The newly amended claim 1 amended limitation contains "a wireless access point/wireless device association for said transponder is created and stored at one of said standard data network and said transponder" still does not structurally distinguishable from a prior art apparatus.

First of all, in response to Applicant's argument on pages 6 to 8, that "transponders are capable of providing geographic location reporting in the network" does not include certain features of Applicant's invention, the limitations on which the Applicant relies (i.e. "means for resolving location of said transponder based on signals communicating said identification information to wireless access points of said computer network") are not stated in the claims 1-5. It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices Inc.,* 7 USPQ2d 1064. Examiner found this limitation in the amended Claim 6 only.

On page 8 last paragraph, Applicant's arguments with respect to the invention in Meier in view of Flach et al. does not teach or suggest all the claims in the application is not persuasive. The claims in a pending application should be given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974).

It is, once again, Meier discloses an IP Terminal(s) 104 or 415 in a wide area network (WAN). As shown in Figure 1, the protocol of an enterprise network 100 is an open wireless local area (OWL) network protocols which support a variety of features which enhance mobile or portable terminals mobility (column 3 line 20 to column 4 line 26; see Figures 1 to 3). Furthermore, Meier discloses a mobile IP terminal 415 has roamed from its home subnet, subnet 411, to an access point (AP) 403 on a subnet 412. The mobile IP terminal 401 may be any device which contains a radio transceiver such as a portable computing device, a code reader, a printer, digital camera, RF TAG, etc. An AP 401 serves as the OWL root node. An AP 402 is the designated AP for the secondary LAN which is the subnet 412. The AP 402 is attached to the AP 401 through an IP tunnel 421. The AP 403 is attached to the AP 402 through an Ethernet link 425. Note that the physical path for the IP tunnel 421 between the AP 401 and the AP 402 is through an IP router 423. The IP router 423 has two ports, port 431 attaches to the subnet 411 while port 432 attaches to the subnet 412. The IP address for port 431 identifies subnet 411, while the IP address for port 432 identifies the subnet 412. The subnet 411 is the primary OWL LAN. Clearly, an IP Terminal 104 or 415 for associating with a respective wireless access points of a standard data network. These terminals capable of transmitting identification information corresponding to said transponder in accordance with a wireless network protocol to create a wireless premises based wireless network having a multi-segment of a plurality of wireless access points.

Meier also discloses a mobile IP terminal 415 may be any device which contains a radio transceiver such as a portable computing device, a code reader, a printer, digital camera, RF

TAG (column 8 lines 23 to 41; see Figure 4). Clearly, The IP terminal 104 or 415 is a transponder and an IP terminal (i.e. a transponder) communicates with a standard wireless LAN protocol bidirectional.

Furthermore, Flach et al. disclose that a single frame of the wireless TDMA protocol used between the remote telemeters 102 and the VCELLs 106 (column 13 line 3 to 19; see Figures 1 to 8). The VCELLs broadcast respective control messages to the remote telemeters 102 and the command may be send, for example, to instruct a telemeter to take a blood pressure reading, or to enter into special mode of operation. Whenever a change occurs in the closest VCELL, the telemeter transmits the ID of the new VCELL to the hospital LAN 116. The monitoring stations 120 use this information to keep track of the locations of the patients of the system. In other embodiments of the invention, patient location may be accomplished by having the VCELLs periodically attach VCELL identification codes to the data packets received from the remote telemeters 102 (column 13 line 45 to column 14 line 36; see Figure 1 and 8). Clearly, Flach et al. disclose a remote telemeters transmits a signal in accordance with a wireless network protocol and the wireless TDMA protocol and others are a wireless network protocol.

Therefore, the examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Claim Objections

Referring to Claim 1, the limitation "means for associating said transponder with a device" in line 2 appear to be the same as " whereby a wireless access point/wireless device

association for said transponder is created". Is there any difference between the device and the wireless access point/wireless device?

Claim 6 recites the limitation "a wireless access point of said computer network" in line 11. There is insufficient antecedent basis for this limitation in the claim. It should be "one of the wireless access points of said computer network"

Claim 6 recites the limitation " wireless access points of said network" in line 1. There is insufficient antecedent basis for this limitation in the claim. It should be "wireless access points of said computer network"

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,5,944,659).

Referring to claim 1, Meier discloses a transponder (i.e. a radio transceiver such as RF TAG) (column 1 line 66 to column 2 line 16; see Figures 1, 4 and 9) including

Means for associating said transponder with a device (415) (i.e. an IP terminal) (column 8 lines 23 to 41; see Figures 4 and 9);

Means for associating said transponder (i.e. a radio transceiver such as RF TAG) with respective wireless access points (401 to 403) (i.e. Access Point #1 to Access Point #3) of a standard data network (100) (i.e. an enterprise network includes a LAN) (column 3 lines 20 to 45; column 8 lines 23 to 59; see Figures 1-9).

However, Meier did not explicitly disclose that means, responsive to said receiving of said interrogation signal, for transmitting a signal in accordance with a wireless network protocol that can be received by an access point of said standard data network and interpreted by an access point of said standard data network as identification information and means for storing data in said transponder wherein said data corresponds to said device.

In the same field of endeavor of wireless network communication system, Flach et al. teach that that means (102A) (i.e. a wireless remote telemeter), responsive to said receiving of said interrogation signal, for transmitting a signal (i.e. a data packet) in accordance with a wireless network protocol (i.e. a wireless TDMA communication protocol) (column 6 lines 24 to column 7 line 28; column 13 lines 5 to 44; see Figures 1-4 and 8) that can be received by an access point (106) (i.e. a ceiling-mounted transceiver or VCELL) of said standard data network (116) (i.e. a LAN) and interpreted by an access point (106) of said standard data network (116) as identification information (column 7 lines 12 to 57; column 10 lines 17 to 38; see Figures 1, 3 and 5A) and a memory (406) and wherein said means (102A) for transmitting a signal includes means (408) (i.e. an antenna) for transmitting signals representing data (i.e. data information) stored in said memory (406) (column 9 line 40 to column 10 line 14; see Figure 4) in order to

facilitate the efficient and reliable exchange of information between portable wireless devices and centralized monitoring stations.

One of ordinary skilled in the art recognizes the need to have a wireless remote telemeter transmits a patient data information to a ceiling-mounted transceiver of a LAN using a wireless TDMA communication protocol of Flach et al. in a wireless network having a plurality of wireless access points of Meier because Meier suggests it is desired to provide a mobile IP terminal contains a RF tag to communicate with a plurality of access points in a LAN using an open wireless local area network protocols (column 3 line 20 to 45; column 8 lines 23 to 41; see Figures 4 and 9) and Flach et al. teach that a wireless remote telemeter transmits a patient data to a ceiling-mounted transceiver using a wireless TDMA protocols (column 6 lines 24 to column 7 line 28) in order to enhance reliability of the communication in a LAN. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to have a wireless remote telemeter transmits a patient data information to a ceiling-mounted transceiver of a LAN using a wireless TDMA communication protocol of Flach et al. in a wireless network having a plurality of wireless access points of Meier with the motivation for doing so would have been to provide a wireless network monitoring system to facilitate the efficient and reliable exchange of information between portable wireless devices and centralized monitoring stations.

Referring to claims 3-4, Meier in view of Flach et al. disclose a transponder as recited in claim 1, Flach et al. disclose further including means (402) (i.e. a sensor circuitry) for sensing a condition of said device (102A) (column 9 line 40 to 47; see Figure 4).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (US# 6,701,361) in view of Flach et al. (US# 5,5,944,659) as applied to claim 1 above, and in further view of Welles, II et al. (US# 5,691,980).

Referring to claim 5, Meier in view of Flach et al. disclose a system as recited in claim 1, however, Meier in view of Flach et al. did not explicitly disclose means for controlling said device in response to said interrogation signal or a signal associated with said interrogation signal.

In the same field of endeavor of wireless communication system, Welles, II et al. teach that means (58) (i.e. a tracking unit controller) for controlling said device (10A) (i.e. a mobile tracking unit) in response to said interrogation signal (column 1 line 47 to column 2 line 16; column 5 lines 4 to 38; see Figures 1 and 2) in order to transmit the condition of temperature or pressure of the unit to the central station.

One of ordinary skilled in the art recognizes the need to a responsive to a detected change of condition of Welles, II et al. in location tracking and monitoring devices of Meier in view of Flach et al. because Flach et al. suggest it is desired to provide a physiologic data collected from a patient is made available for monitoring on a LAN (column 6 line 24 to 55) and Welles, II et al. teach that a tracking unit with sensor devices to communicate the messages and commands with the central station (column 4 lines 1 to 16) in order to enhance reliability of the communication. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to add sensors in the tracking units and a responsive to a detected change of condition of Welles, II et al. in a location tracking and monitoring devices of Meier in view of

Flach et al. with the motivation for doing so would have been to provide the tracking asset and control system has the capability to independently determine and report the status of location tracking and monitoring devices remotely from a central monitoring station in a wireless LAN system.

Allowable Subject Matter

Claims 6-14 would be allowable if rewritten to overcome the objection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Referring to claim 6, the following is a statement of reasons for the indication of allowable subject matter: the prior art fail to suggest limitations means for resolving location of said transponder based on signals communicating said identification information to wireless access points of said network and means for accessing and reporting internal access point/wireless device associations including a geographic information system resident on or downloadable to a terminal of said computer network.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam V Nguyen whose telephone number is 571-272-3061. The examiner can normally be reached on Mon-Fri, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Brian Zimmerman can be reached on 571- 272-3059. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BRIAN ZIMMERMAN
PRIMARY EXAMINER

Nam Nguyen
February 15, 2007